

THOMAS E. FRANKOVICH (State Bar #074414)

A PROFESSIONAL LAW CORPORATION

4328 Redwood Hwy., Suite 300

San Rafael, CA 94903

Telephone: 415/674-8600

Facsimile: 415/674-9900

Attorneys for Plaintiffs

LES JANKEY

and DISABILITY RIGHTS

ENFORCEMENT, EDUCATION,

SERVICES: HELPING YOU

HELP OTHERS

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

LES JANKEY, an individual; and)
DISABILITY RIGHTS, ENFORCEMENT,)
EDUCATION, SERVICES: HELPING)
YOU HELP OTHERS, a California public)
benefit corporation,)

Plaintiffs,)

v.)

FIVE HAPPINESS RESTAURANT INC., a)
California corporation; WILLIAM P. YANG)
and MEI-MEI KOO YANG, husband and)
wife as community property,)

Defendants.)

CASE NO. CV-08-2733-MMC

**DECLARATION OF THOMAS E.
FRANKOVICH RE PLAINTIFFS'
REQUEST FOR TELEPHONIC
APPEARANCE AND ~~PROPOSED~~
ORDER**

I, THOMAS E. FRANKOVICH, declare that I am an attorney duly licensed to practice in all the courts in the state of California and if called as a witness and duly sworn, I would and could competently testify to the following based upon my own personal knowledge:

1. That at all times relevant I was the attorney of record for plaintiffs LES JANKEY and DISABILITY RIGHTS, ENFORCEMENT, EDUCATION, SERVICES: HELPING YOU HELP OTHERS in the above-entitled action which is a Title III Access Case.

///

DECLARATION OF THOMAS E. FRANKOVICH RE PLAINTIFFS' REQUEST FOR TELEPHONIC APPEARANCE AND ~~PROPOSED~~ ORDER

1 2. That I have personally known plaintiff LES JANKEY for more than fifteen (15)
2 years.

3 3. That plaintiff LES JANKEY is a disabled person within the meaning of the
4 Americans with Disabilities (“ADA”) of 1990.

5 4. That plaintiff LES JANKEY lives in Los Angeles, California.

6 5. That a mediation pursuant to General Order 56 is set for November 13, 2009, in
7 San Francisco, California.

8 6. That on Monday, November 9, 2009, I was informed by plaintiff’s sister that
9 plaintiff was hospitalized.

10 7. That on November 9, 2009, at approximately 11:00 a.m., I contacted Mr. Jankey.
11 He is an inpatient at Cedars Sinai Hospital in Los Angeles, California.

12 8. That plaintiff LES JANKEY informed me that this is his second hospitalization in
13 three (3) weeks. His most recent and current hospitalization took place on or about November 5,
14 2009, for an infected left foot caused by a burn from a heating device.

15 9. That plaintiff LES JANKEY informed me that he is being treated with intravenous
16 antibiotics and his hospitalization at Cedars Sinai was indefinite but that he hoped to be released
17 to home on November 12, 2009.

18 10. That plaintiff LES JANKEY informed me that his treating physician is Emmanuel
19 Sims. Plaintiff LES JANKEY informed me that he was told that when he would be released to go
20 home, that he would have to have a “pick line” placed in his body to transfer antibiotics
21 intravenously.

22 11. That plaintiff LES JANKEY informed me that his foot is very painful, raw in
23 places, and that he does not believe he could physically travel from Los Angeles to San Francisco,
24 California to attend the mediation but could and would participate via telephone.

25 ///

26 ///

27 ///

28 **DECLARATION OF THOMAS E. FRANKOVICH RE PLAINTIFFS’ REQUEST FOR TELEPHONIC APPEARANCE AND
[PROPOSED] ORDER**

12. My office has contacted defense counsel, Jason G. Gong. Defense counsel has agreed to allow plaintiff LES JANKEY to appear at the mediation telephonically.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this November 9, 2009, at San Rafael, California.

By: /s/ Thomas E. Frankovich

Thomas E. Frankovich

ORDER

WHEREAS, based upon the declaration of Thomas E. Frankovich on behalf of plaintiff LES JANKEY being hospitalized at Cedar in Los Angeles, California, indefinitely and request has been made that plaintiff LES JANKEY is allowed to participate at the mediation telephonically, **IT IS HEREBY ORDERED** that plaintiff LES JANKEY may attend the Mediation set for November 13, 2009 at 11:30 a.m. telephonically.

DATED: November 12, 2009

By: 

HONORABLE MAXINE M. CHESNEY

UNITED STATES DISTRICT JUDGE

///

DECLARATION OF THOMAS E. FRANKOVICH RE PLAINTIFFS' REQUEST FOR TELEPHONIC APPEARANCE AND [PROPOSED] ORDER